

1 and when he arrived, he found the scene  
2 secured. He learned that it was secured by  
3 Officer Harrison.

4 He reviewed the scene and then took  
5 photographs. He also took a video of the crime  
6 scene, and then he walked the crime scene and  
7 began to collect evidence. A crime scene  
8 diagram was done by was Officer Huett to show  
9 the location of different pieces of evidence at  
10 the scene. He would have identified State's  
11 Exhibit 2 to be the crime scene that he drew to  
12 show where the evidence was. And his testimony  
13 would be that this would be a fair and accurate  
14 depiction of the crime scene as he saw it at  
15 the time.

16 MS. PERKINS: Judge, we offer State's  
17 2.

18 MR. BELSER: No objection.

19 THE COURT: It's admitted.

20 (State's Exhibit 2 was admitted  
21 into evidence.)

22 MS. PERKINS: I'm not that  
23 technologically advanced, so -- Officer  
24 Huett -- this would be State's Exhibit 16.  
25 That's the crime scene video that he made. And

1 his testimony would be that this video fairly  
2 and accurately depicts the scene as he saw it  
3 and that it would aid you-all in understanding  
4 what the crime scene looked like at the time of  
5 the incident in question.

6 Judge, we offer State's 16.

7 MR. BELSER: No objection.

8 THE COURT: It's admitted.

9 (State's Exhibit 16 was admitted  
10 into evidence.)

11 THE COURT: How long does this take?

12 MR. KIDD: It's 20 minutes.

13 THE COURT: Okay. We've been 55.

14 Let's go ahead and take a break. I'm going to  
15 give you a break now before you see the  
16 videotape. Let me again remind you not to  
17 discuss the case among yourselves or with  
18 anyone else, and we'll see you back in the jury  
19 assembly room in 10 minutes. Jury assembly  
20 room in 10 minutes, not here but the assembly  
21 room.

22 (Short recess.)

23 THE COURT: All right.

24 MS. PERKINS: Back in the stipulation  
25 of W. R. Huett. He just identified State's

1 Exhibit 16 as being the crime scene video.

2 THE COURT: Y'all approach one  
3 second. Come up here second one.

4 (The following occurred at the  
5 bench outside the hearing of the  
6 jury:)

7 THE COURT: Do you want this reported  
8 or not reported?

9 MR. KIDD: Not reported.

10 MR. BELSER: Not reported. That will  
11 be fine.

12 (Videotape was played in open  
13 court.)

14 MS. PERKINS: Officer Huett would  
15 identify Exhibits 3 through 12 as the crime  
16 scene photos that he took as he walked through  
17 the scene. The photos fairly and accurately  
18 depict the crime scene as he saw it. State's  
19 Exhibit 3 --

20 Judge, we offer State's Exhibits 3 through  
21 12.

22 MR. BELSER: No objection.

23 THE COURT: Three through 12?

24 MS. PERKINS: Yes, sir.

25 THE COURT: They are admitted.

1 (State's Exhibits 3, 4, 5, 6, 7,  
2 8, 9, 10, 11 and 12 were admitted  
3 into evidence.)

4 MS. PERKINS: State's 3 is a photo of  
5 the exterior front of the store. State's  
6 Exhibit 4 is a picture of the interior of the  
7 store looking from the front of the store to  
8 the back. State's Exhibit 5 -- State's Exhibit  
9 5 is a photo of the interior of the store  
10 looking from the back of the store to the front  
11 of the store. State's Exhibit 6 is a photo of  
12 the cash register of the store looking from the  
13 front. State's Exhibit 7 is a photo of the  
14 register of the store looking toward the back  
15 of the store. State's Exhibit 8 is a distant  
16 photo of the victim's body. State's Exhibit 9  
17 is a close-up photo of the victim's body.  
18 State's Exhibit 10 is a close-up photo of the  
19 wound, the fatal wound to the victim's head.  
20 State's Exhibit 11 is that photo previously  
21 shown of the wall between the store and Tulane  
22 Court. And State's Exhibit 12 is a photo taken  
23 by Officer Huett of that gun on the other side  
24 of the wall between the store and Tulane  
25 Court.

1           Officer Huett would also identify State's  
2           Exhibit 17 -- 17-A. He would identify 17-A as  
3           the gun shown in that picture and the gun that  
4           was found on the other side of that wall. His  
5           testimony would be that State's Exhibit 17,  
6           this gun, is in the same or substantially the  
7           same condition as when he last saw it.

8           Judge, we offer 17-A.

9           MR. BELSER: No objection.

10          THE COURT: It's admitted.

11                   (State's Exhibit 17-A was  
12                   admitted into evidence.)

13          MS. PERKINS: Officer Huett would  
14          identify State's Exhibit 17-B and 17-C as being  
15          the magazine that was inside of the gun and  
16          17-C as being the one unfired bullet that was  
17          still in the gun when it was retrieved. 17-B  
18          and C are both in the same or substantially  
19          same condition as when he retrieved it.

20          Judge, we offer 17-B and C.

21          MR. BELSER: No objection.

22          THE COURT: They're admitted.

23                   (State's Exhibits 17-B and 17-C  
24                   were admitted into evidence.)

25          MS. PERKINS: Officer Huett would also

1 identify State's Exhibit 21, 22, 23, 24, 25,  
2 26, 27, 28, 29 and 30 as being the shell cases  
3 that were recovered at the scene. His  
4 testimony would be that all these shell cases  
5 were in the same or substantially same  
6 condition as when he retrieved them.

7 Judge, we offer State's Exhibit 21, 22,  
8 23, 24, 25, 26, 27, 28, 29 and 30.

9 MR. BELSER: No objection.

10 THE COURT: They're admitted. Hold on  
11 one second so she can write that down.

12 (State's Exhibits 21, 22, 23, 24,  
13 25, 26, 27, 28, 29 and were  
14 admitted into evidence.)

15 MS. PERKINS: This is State's Exhibit  
16 21 that I'm showing you, and Officer Huett  
17 would identify State's Exhibit 21 through 30 as  
18 being shell cases. This is what a shell case  
19 looks like.

20 The victim's body was turned over to Scott  
21 Belton at the Department of Forensic Sciences,  
22 who transported it to the morgue.

23 The surveillance tape, which was  
24 identified as State's Exhibit 1, was taken from  
25 the owner of the package store and was given to

1 Detective Barnett, and it was secured in police  
2 impound. He would identify State's Exhibit 1  
3 to be the surveillance video that he got from  
4 the owner of the store and took to the police  
5 impound to keep it secure.

6 I'm going to walk you through what Officer  
7 Huett's testimony would be as to where these  
8 shell cases were found. R-2 would be a shell  
9 casing found over here behind where the  
10 victim's body, Travis Benefield, was found.  
11 R-3 would be a casing that was found as we  
12 walked in the door. R-4 would be a casing that  
13 was found on the side of the register that's  
14 coming into the store. R-5 would be one of the  
15 casings that was found as you're heading toward  
16 the back of the store. R-6 would be one of the  
17 cases that's found as you're going past the  
18 coolers on towards the back of the store. R-14  
19 would be one of the cases that's found  
20 beside -- behind the victim's body. R-15 is  
21 another casing behind the victim's body. R-8 is  
22 the casing that's found back as you are going  
23 toward the back of the building. R-9 is  
24 another casing that's found on the back toward  
25 where the victim, Ray Davis, going toward the

1 back of the office area. And R-10 is another  
2 casing that's found back in that area.

3 Officer Huett found a total of 10  
4 casings. And the casings, along with the gun,  
5 were collected and turned over to the  
6 Department of Forensic Sciences for testing,  
7 and they were secured.

8 Next would be the stipulation of Corporal  
9 Bowman, J. M. Bowman. Corporal Bowman is  
10 employed with the Montgomery Police Department  
11 as an evidence technician, also.

12 On April 23rd, 2002, Detective Howton  
13 requested that Corporal Bowman collect a lead  
14 projectile which was recovered from the victim,  
15 Ray Davis, from the evidence supply room and  
16 submit it to the Department of Forensic  
17 Sciences for testing. Officer Bowman collected  
18 that projectile. And that particular  
19 projectile that was taken from Ray Davis was  
20 released to Joseph Saloom of the Department of  
21 Forensic Sciences for testing.

22 Corporal Bowman would identify State's  
23 Exhibit 32 as the projectile that was taken  
24 from the victim.

25 Next is the stipulation for Scott Belton.



1 Scott Belton is employed with the Alabama  
2 Department of Forensic Sciences as a forensics  
3 investigator. The Alabama Department of  
4 Forensic Sciences is the state crime lab, an  
5 independent group of experts who examine items  
6 for evidence such as body, blood, guns, hair  
7 and drugs.

8 One of the duties of a forensics  
9 investigator is to get bodies from the scene of  
10 a crime and transport it to the Department of  
11 Forensic Sciences for a post-mortem  
12 examination, commonly known as an autopsy.

13 On September the 3rd of 2001, Scott Belton  
14 was called to the scene, this Premium Package  
15 Store, this incident, to retrieve the body of  
16 Travis Benefield. The scene was secured when  
17 he arrived. He took custody of Travis  
18 Benefield's body and then transported the body  
19 to DFS for an autopsy examination. The body  
20 was not altered before the autopsy.

21 He will identify State's Exhibit 3 as the  
22 store that he went to to get the body, identify  
23 State's Exhibit 9 as the body that he  
24 transported. He would identify State's Exhibit  
25 13 as that same body.

1           Next is the stipulation of Dr. Ben  
2           Bristol. Dr. Bristol is a medical doctor and  
3           expert in forensic pathology. In September of  
4           2001, Dr. Bristol was employed with the Alabama  
5           Department of Forensic Sciences as deputy  
6           medical examiner.

7           A medical examiner is a doctor that  
8           performs autopsies, which is the external and  
9           internal examination of a body to determine the  
10          cause of death. Dr. Bristol is the doctor that  
11          performed the autopsy on the victim, Travis  
12          Benefield, and he followed departmental  
13          protocol in doing so.

14          Dr. Bristol found during his examination  
15          that Travis Benefield had two gunshot wounds to  
16          his head, two gunshot wounds of his abdomen,  
17          and a grazed wound on his right forearm. In  
18          his expert opinion, Dr. Bristol determined the  
19          cause of death to be multiple gunshot wounds.

20          During his examination, Dr. Bristol  
21          recovered a bullet fragment from the head of  
22          Travis Benefield, which he secured and turned  
23          over for firearms examination.

24          He would identify State's Exhibit 31 to be  
25          the bullet that he recovered from the

1 victim, Travis Benefield's head. His testimony  
2 would be this bullet is in the same or  
3 substantially same condition as it was when he  
4 retrieved it from the victim's body.

5 We offer State's 31.

6 MR. BELSER: No objection.

7 THE COURT: It's admitted.

8 (State's Exhibit 31 was admitted  
9 into evidence.)

10 MS. PERKINS: Dr. Bristol prepared a  
11 written report of his finding with diagrams,  
12 which he signed.

13 Dr. Bristol would identify State's Exhibit  
14 18 as a fair and accurate copy of his report,  
15 the report in which he documented the findings,  
16 finding the cause of the death of Travis  
17 Benefield to be multiple gunshot wounds.

18 Dr. Bristol would identify State's Exhibit  
19 13 through 15 as photos that were taken during  
20 his autopsy and that they fairly and accurately  
21 depict the wounds on Travis Benefield.

22 Judge, we offer State's 13 through 15.

23 MR. BELSER: No objection.

24 MS. PERKINS: State's 13 is a photo of  
25 the body that he examined.

1 THE COURT: Hold on. Let me let her  
2 write it down as we go. 13 and 15 are  
3 admitted.

4 MS. PERKINS: 13, 14 and 15.

5 THE COURT: 13, 14 and 15 are  
6 admitted.

7 (State's Exhibits 13, 14 and 15  
8 were admitted into evidence.)

9 MS. PERKINS: State's Exhibit 13 is a  
10 photo of the body he examined. 14 shows the  
11 abdominal entrance wounds. 15 is a photo of  
12 the two exit wounds. And State's Exhibit 10  
13 shows the most serious gun wound, which is the  
14 gunshot wound to the head.

15 Judge, we offer State's 10.

16 MR. BELSER: It's been admitted, but  
17 no objection.

18 MS. PERKINS: We offer State's 18.

19 MR. BELSER: No objection.

20 THE COURT: Hold on one second. 18 is  
21 admitted. Give us a second to write it down,  
22 Ms. Perkins.

23 MS. PERKINS: Yes, sir.

24 (State's Exhibit 18 was admitted  
25 into evidence.)

1 MS. PERKINS: Next we have the  
2 stipulations for Joe Saloom. Joe Saloom is an  
3 expert in the field of forensic firearms  
4 examination, and he works at the Department of  
5 Forensic Sciences.

6 Joe Saloom tested the gun that was found  
7 by the wall and the cases and projectiles that  
8 were found in the store that were submitted by  
9 the evidence technician, Officer Huett. He  
10 also tested the bullet fragment that was found  
11 from the head of Travis Benefield that was  
12 submitted by Dr. Bristol, and he tested the  
13 bullet that was found in Ray Davis's body. All  
14 items were tested and submitted in secure  
15 condition.

16 Using the protocol for testing these  
17 items, Joe Saloom, in his expert opinion,  
18 determined that seven cases were fired through  
19 the gun, the Ruger nine millimeter handgun. He  
20 also determined that three more of the casings  
21 could have been fired through the gun, but the  
22 results of the test were inconclusive. But  
23 they were consistent with coming from another  
24 gun of a similar type.

25 Joe Saloom determined that the fragment

1           that was found in Travis Benefield's head was  
2           fired through this same Ruger nine millimeter  
3           gun.

4           He determined that the bullet from Ray  
5           Davis's back could have been fired through this  
6           gun, but the results were inconclusive. The  
7           results were consistent with coming from  
8           another gun of a similar type.

9           Joe Saloom prepared a written report of  
10          his findings, which he signed. State's Exhibit  
11          19-A is a copy of Joe Saloom's report  
12          documenting his findings. State's Exhibit 19-B  
13          is another copy of a report documenting some  
14          additional -- documenting additional findings.  
15          Both of those reports are in the same or  
16          substantially same condition, and they fairly  
17          and accurately document what he found during  
18          his studies and during his tests.

19          Judge, we offer State's 19-A and B.

20                 MR. BELSER: No objection.

21                 THE COURT: They're admitted.

22                         (State's Exhibits 19-A and 19-B  
23                         were admitted into evidence.)

24                 MS. PERKINS: Next, we have the  
25          stipulations of fact for Detective Howton.

1 Detective E. E. Howton is a detective with the  
2 Montgomery Police Department in the  
3 robbery/homicide division, and he participated  
4 in the investigation of the robbery/shooting  
5 that occurred at the Premium Package Store.

6 Detective Howton, along with several other  
7 investigators, obtained the address of the  
8 defendant, Willie Gardner, as he was developed  
9 as a suspect and went to his house to look for  
10 him. At his house, they came in contact with  
11 his mother, Felicia Gardner, and told her that  
12 they were looking for the defendant in  
13 reference to a robbery that occurred at Premium  
14 Package Store.

15 The defendant's mother, Ms. Gardner,  
16 allowed Detective Howton and the other  
17 investigators to go into the house and to look  
18 for the defendant, but they were unable to  
19 locate him. Detective Howton asked the  
20 defendant's mom to bring him to headquarters if  
21 she was able to locate him, and Ms. Gardner  
22 told Detective Howton that she would.

23 On September 4th of 2001 at about 3:30 in  
24 the morning, Ms. Gardner brought the defendant  
25 to headquarters. Detective Howton took the

1 defendant to an interview room. He obtained  
2 information from him that he put on a document  
3 called a witness locator. He took a picture of  
4 the defendant, and he prepared a right's form  
5 for the defendant's interview. The defendant,  
6 the witness locator, the right's form was all  
7 turned over to Detective Barnett for an  
8 interview.

9 State's Exhibit 33 is the right's form.  
10 That would be -- it's the witness locator that  
11 would be identified by Detective Howton, the  
12 information that he got from the defendant, Wet  
13 Willie. State's Exhibit 14 -- 34, pardon me --  
14 is the juvenile right's form. State's Exhibit  
15 35 would be identified as the photo that was  
16 taken of the defendant.

17 Detective Howton also received a bullet  
18 from Ray Davis that was taken from Mr. Davis's  
19 body. Detective Howton secured the bullet,  
20 impounded it to be taken to the Department of  
21 Forensic Sciences for firearm's examination.  
22 Detective Howton would identify State's Exhibit  
23 32 as being the bullet that he got from Ray  
24 Davis. And that is a fair -- that it's in the  
25 same or substantially same condition as when he



1 got it from Ray Davis.

2 Judge, we offer State's Exhibit 32.

3 MR. BELSER: No objection.

4 THE COURT: It's admitted.

5 (State's Exhibit 32 was admitted  
6 into evidence.)

7 MS. PERKINS: Next would be the  
8 testimony of Sergeant S. A. Martino. Detective  
9 Martino is a robbery/homicide detective with  
10 the Montgomery Police Department.

11 On September 4th, 2001, at about 4:20 a.m.,  
12 Detective Martino was at headquarters assisting  
13 in the investigation of this robbery/homicide  
14 that occurred at Premium Package Store when the  
15 defendant Willie Gardner, also known as Wet  
16 Willie, came to headquarters and turned himself  
17 in.

18 The defendant was turned over to Detective  
19 Keith Barnett, along with Detective Martino  
20 from Detective Howton. He was turned over for  
21 an interview. Detective Martino was present  
22 when the defendant was read his juvenile  
23 right's form. He stated that he was with his  
24 girlfriend at her house at the time of the  
25 incident. Detective Martino then took the

1 defendant from the audio/video room to a secure  
2 holding area.

3 State's Exhibit 34 would be the juvenile  
4 right's form the defendant signed at the time  
5 they interviewed him.

6 The testimony of Detective G. R. Naquin.  
7 Detective Naquin is a robbery/homicide  
8 detective also with the Montgomery Police  
9 Department. He assisted in the investigation  
10 of the robbery/homicide that occurred at  
11 Premium Package Store. Detective Naquin was  
12 asked to transport the defendant from the  
13 secure holding area where he was left by  
14 Detective Martino to the county jail.

15 Later that day, at about 8:40 a.m.,  
16 Detective Naquin was advised by Detective Keith  
17 Barnett that the defendant's mother, Felicia  
18 Gardner, called and told them that the  
19 defendant wanted to talk to detectives at this  
20 time.

21 Detective Naquin and Detective Barnett  
22 went to the Montgomery County Detention  
23 Facility and made contact with the defendant.  
24 They told him that his mother had called and  
25 said that he wanted to give a statement, and

1           they asked him if this was true. The defendant  
2           said yes, he did want to talk, and they brought  
3           him to headquarters and escorted him  
4           immediately to the audio-video room to get a  
5           statement from him.

6           The defendant was read his juvenile  
7           right's form, his adult right's form, and he  
8           signed both of those forms indicating that he  
9           understood his rights. An oral statement was  
10          first taken from the defendant, and then the  
11          defendant gave a statement that was recorded on  
12          audio cassette and video.

13          State's Exhibit 36 is that juvenile  
14          right's form that his rights were read from and  
15          which he signed indicating that he understood  
16          them. State's Exhibit 37 is the adult rights  
17          form from which his rights were read and that  
18          the defendant signed, indicating that he  
19          understood them.

20          State's Exhibit 36 and 37 are in the same  
21          or substantially same condition as when they  
22          were filled out.

23          Judge, we offer State's 36, 37.

24                               (State's Exhibits 36 and 37 were  
25                               admitted into evidence.)

1 MS. PERKINS: Not yet. State's  
2 Exhibit 38 is a video statement that was taken  
3 of the defendant while he was giving his  
4 statement. State's Exhibit 39 is an audio  
5 statement that was taken, along with the video  
6 recorder. State's Exhibit 40 is an audio  
7 statement also that was taken as the defendant  
8 was giving his statement. State's Exhibit 41  
9 is a transcript of the defendant's statement.

10 Next is the stipulations for Lieutenant  
11 Gantt. Lieutenant M. L. Gantt is a lieutenant  
12 with the Montgomery Police Department in the  
13 detective division. He participated in the  
14 investigation of this robbery/homicide that  
15 occurred at the Premium Package Store.

16 He received a call from the defendant's  
17 mother, Felicia Gardner, on September 5th, 2003  
18 informing her that the defendant wanted to  
19 speak with investigators about the case.  
20 Lieutenant Gantt relayed this information to  
21 the case agent, Keith Barnett, and sent  
22 Detective Barnett and Detective Naquin to the  
23 Montgomery County Detention Facility to talk  
24 with the defendant.

25 MR. KIDD: Your Honor, at this time,

1           the State calls Detective Keith Barnett.

2                           KEITH BARNETT

3           The witness, having first been duly sworn  
4   to speak the truth, the whole truth and nothing but  
5   the truth, took the stand and testified as follows:

6                           DIRECT EXAMINATION

7   BY MR. KIDD:

8   Q.   Sir, if you would, introduce yourself to the  
9       ladies and gentlemen of the jury, please.

10   A.   Yes. My name is Keith Barnett.

11   Q.   Mr. Barnett, how are you currently employed?

12   A.   I work for the Montgomery Police Department,  
13       detective division, robbery/homicide bureau.

14   Q.   Detective Barnett, how long have you been  
15       associated with law enforcement?

16   A.   Approximately 10 years.

17   Q.   And how long have you worked as a detective in  
18       the robbery/homicide division of the Montgomery  
19       Police Department?

20   A.   Seven and a half years.

21   Q.   Detective Barnett, does the term case agent  
22       have any specific meaning to you?

23   A.   Yes. The case agent in a case would basically  
24       be the investigator, the lead investigator in  
25       the case. He would be the most knowledgeable

1 in the case. Needless to say, I don't believe  
2 there's any one person who could be able to  
3 quote every single word in a case as  
4 complicated as a murder case, much less one  
5 like we're talking about at this time, but he  
6 would be the one that would be most familiar  
7 with what everybody has done. He would be the  
8 one to compile all the paperwork and present  
9 all the evidence to the District Attorney's  
10 office and see the case through.

11 Q. And Detective Barnett, were you in fact not the  
12 case agent assigned to the investigation of the  
13 shooting death of Travis Benefield?

14 A. Yes.

15 Q. And as the case agent, would it be fair to say  
16 that other detectives with the Montgomery  
17 Police Department helped you in your  
18 investigation of Willie Gardner?

19 A. Yes.

20 Q. And pursuant to those investigations, they  
21 turned documents over to you and advised you  
22 the steps that they had taken and the findings  
23 that they had made during that investigation?

24 A. Yes.

25 Q. Sergeant Barnett, back on September the 3rd of

1           2001, did you have an occasion to go to Premium  
2           Package on Adams Avenue?

3       A.    I did.

4       Q.    Once you arrived there, what was the first  
5           thing that you did?

6       A.    Upon arrival there, of course, I met with the  
7           investigators that were on the scene already,  
8           ensured that I was placed on the crime scene  
9           log. And then I was escorted through the crime  
10          scene and basically advised as to the situation  
11          at that time.

12      Q.    And what other detectives were there on the  
13          crime scene, if you recall?

14      A.    I know Detective Howton was there at that time,  
15          and I believe -- I'm trying to remember.

16      Q.    Detective Barnett, there were other detectives  
17          there that had that crime scene secured?

18      A.    Oh, yes. There were several police officers  
19          there securing the scene, and then there were  
20          detectives already there trying to establish  
21          what was -- the substance inside the scene.

22      Q.    Detective Barnett, I'm going to show you what  
23          we've marked State's Number 1. Can you  
24          identify State's 1 for me, please?

25      A.    Let me see what it is. If I'm not mistaken,

1           this is going to be the video from the business  
2           itself, but I'm trying to confirm that. Hold  
3           on just a second.

4                   MR. BELSER: Judge, we'll stipulate  
5           that that is the videotape from the store.

6       Q.   Detective Barnett, once you were there at the  
7           crime scene, did you have the occasion to  
8           review or to look at State's Exhibit Number 1  
9           while you were there at the crime scene?

10      A.   I did.

11      Q.   Detective, State's Exhibit Number 3, which is  
12           now on the screen, that is the location there  
13           on Adams Avenue that you responded to?

14      A.   Yes.

15      Q.   Now, Detective Barnett, while you guys were  
16           there investigating the crime scene, what other  
17           detectives were involved with taking a  
18           statement from the surviving victim, Mr. Ray  
19           Davis?

20      A.   I know that Detective Cristler responded to the  
21           hospital and spoke to Mr. Davis at the  
22           hospital.

23      Q.   And was he able to speak to Mr. Davis prior to  
24           him having surgery?

25      A.   Yes.



1 Q. And after speaking to Mr. Davis, was there a  
2 suspect that was identified?

3 A. Yes, there was.

4 Q. And who was that suspect?

5 A. Willie Gardner.

6 Q. Now, Detective Barnett, I believe this actually  
7 occurred somewhere around eight o'clock in the  
8 evening. During the course of the night and  
9 early in the hours of the next morning, were  
10 members of the Montgomery Police Department  
11 able to locate Willie Gardner?

12 A. No.

13 Q. What efforts were made in order to contact him  
14 or to find him?

15 A. Detectives responded to his residence in the  
16 Tulane Court area and actually made contact  
17 with his family members advising that we needed  
18 to speak to him.

19 Q. After making contact with his family members  
20 and advising them of your need to speak with  
21 Mr. Gardner, at some point in time, did you  
22 have the occasion to speak with Mr. Gardner?

23 A. Yes, we did.

24 Q. How did that occur?

25 A. Mr. Gardner came to the police department and

1           turned himself in.

2       Q.   Do you know when, approximately, it was?   The  
3           date?

4       A.   It would have been the following day, which  
5           would have been on the 5th -- I'm sorry.   Hold  
6           on.

7       Q.   Detective Barnett, I'm going to show you what's  
8           marked State's Exhibit Number 33.   If you'll  
9           take a look at this.   Can you identify State's  
10          Exhibit 33 for me, please?

11      A.   Yes.   This is a witness locator that I typed up  
12          on Willie Gardner.

13      Q.   Does it have a date on there?

14      A.   No, it does not.

15      Q.   Okay.   What exactly is a witness locator?

16      A.   A witness locator is a -- it's a sheet of paper  
17          that has all the pertinent information on a  
18          witness, his name, date of birth, Social  
19          Security number, an address, place of business,  
20          and also has an alternate contact in case we  
21          need to get in touch with that person and  
22          they've moved or we're not able to locate them  
23          for some reason, we can call this other person  
24          who would be able to refer us to them.

25      Q.   I show you State's Exhibit Number 34 and 35.

1 If you'll take a look at those for me.

2 A. Okay.

3 Q. What is State's Exhibit Number 34, first?

4 A. This is the juvenile right's form I read to  
5 Willie Gardner on the 4th, September the 4th  
6 2001 at about 4:23 in the morning.

7 Q. Now, Detective Barnett, if you could, just  
8 briefly explain the procedures of how the  
9 Montgomery Police Department goes about  
10 informing an individual of any constitutional  
11 rights that they have.

12 A. Okay. This is a standardized form that's used  
13 in all type of investigations, okay? In this  
14 case, this form was a juvenile rights form. At  
15 the time, Mr. Gardner was a juvenile. And  
16 basically, we go over the form with them line  
17 by line, okay? Specifically, I'll go over each  
18 and every line with the person I'm questioning,  
19 and I will insure after I read each and every  
20 phrase to them that I asked them do you  
21 understand what I've just read to you, or do  
22 you understand and get a verbal response from  
23 them. I then check off on the form as to  
24 whether or not they did acknowledge.

25 Q. Did Willie Gardner acknowledge to you in any

1 way that he understood those rights?

2 A. Yes, he did.

3 Q. And Detective Barnett, did you advise him of  
4 these rights prior to speaking to him regarding  
5 his involvement, if any, in this alleged  
6 shooting?

7 A. Yes, I did.

8 Q. State's Exhibit Number 34, is it in the same or  
9 substantially the same condition as it was when  
10 you read it and got his signature on there?

11 A. Yes, it is.

12 MR. KIDD: Judge, we offer State's 2  
13 at this time -- or, excuse me, 34 at this time.

14 MR. BELSER: No objection to 34 or 33.

15 THE COURT: All right. They are  
16 admitted. Did you offer 33?

17 MR. KIDD: I have not yet, but we  
18 offer it at this time.

19 THE COURT: It's admitted.

20 (State's Exhibits 33 and 34 were  
21 admitted into evidence.)

22 Q. Detective, I'm going to show you now State's  
23 Exhibit 35. Can you explain or can you  
24 identify State's Exhibit Number 35 for me,  
25 please?

1 A. Yes. This is a photograph that was taken of  
2 Willie Gardner on the morning that he was  
3 questioned when he turned himself in.

4 Q. And Detective Barnett, what's the purpose of  
5 taking that photograph?

6 A. Identification purposes.

7 Q. And State's 35, is it a fair and accurate  
8 representation of the photograph that was taken  
9 of Willie Gardner?

10 A. Yes.

11 MR. KIDD: Judge, we offer State's 35  
12 at this time.

13 MR. BELSER: No objection.

14 THE COURT: It's admitted.

15 (State's Exhibit 35 was admitted  
16 into evidence.)

17 Q. Detective Barnett, after advising Mr. Gardner  
18 of his constitutional rights and having him --  
19 let me show you just for a second State's  
20 Exhibit Number 36. Detective, I'm going to  
21 zoom in on this a little bit so we can see it a  
22 little bit better. There appears to be --  
23 there are some check marks on that, Detective  
24 Barnett. What were those checks marks?

25 A. That's -- as I read each line and I ask the

1 subject if he understands each right, and he  
2 acknowledges he does, I check it.

3 Q. Detective Barnett, after going over these  
4 procedures with Mr. Gardner, what, if anything,  
5 did he tell you about his involvement in this  
6 robbery/homicide?

7 A. That he had been at his girlfriend's house.

8 Q. Detective Barnett, at that point in time, where  
9 was Mr. Gardner taken?

10 A. At that point in time, he was then held until I  
11 could finish the paperwork processing him and  
12 charging him with capital murder, and then he  
13 was taken and placed in the Montgomery County  
14 Detention Facility.

15 Q. Now, the following morning, what, if anything,  
16 happened with regard to Mr. Gardner making  
17 attempts to get a message to you?

18 A. I was advised by my supervisor, Lieutenant  
19 Gantt, that Mr. Gardner wished to speak with me  
20 on this date. And at that point in time,  
21 myself and Detective Naquin went to the  
22 Montgomery County Detention Facility where we  
23 picked Mr. Gardner up.

24 Q. When you arrived there at the jail, what did  
25 you do?

1 A. They brought Mr. Gardner down to the area where  
2 you pick prisoners up and drop them off. I  
3 asked him right then, Mr. Gardner, do you want  
4 to come give me a statement? Is that what  
5 you're telling me now? He advised he did. We  
6 then brought him back to the city where we took  
7 him back to the interview room and took a  
8 statement from him.

9 Q. This occurred the following morning after the  
10 first interview, two days after the shooting?

11 A. Yes, sir.

12 Q. Detective Barnett, I'm going to show you what's  
13 been marked for identification purposes 36 and  
14 37 and ask you if you can identify 36 and 37  
15 for me, please?

16 A. Yes. These are -- 36 is a juvenile rights form  
17 that I read to Mr. Gardner on the 5th of  
18 September at 8:45 in the morning. And then  
19 Exhibit 37 is an adult rights form that I read  
20 to him on the 5th of September immediately  
21 following the juvenile rights form at 8:45.

22 Q. And Detective Barnett, did you follow those  
23 same procedures as far as advising Mr. Gardner  
24 of his constitutional rights as you had done on  
25 the previous day?

1 A. I did.

2 Q. Now, Detective Barnett, I notice State's  
3 Exhibit Number 37 is an adult waiver of rights  
4 form. What's the difference between the two of  
5 those?

6 A. Basically, the difference between the two forms  
7 is only one line in the form. But the  
8 difference is juvenile rights forms are read to  
9 juveniles and adult rights are read to adults.

10 Q. On this particular occasion, why did you read  
11 Mr. Gardner both his juvenile rights and his  
12 rights as an adult?

13 A. Because Mr. Gardner at this time is a juvenile;  
14 however, he is facing adults charges, due to  
15 his age.

16 Q. And once you went over both of those forms with  
17 Mr. Gardner, did he acknowledge to you in any  
18 way that he understood what his constitutional  
19 rights were?

20 A. Yes.

21 Q. And how did he do that?

22 A. He acknowledged them by reading the waiver at  
23 the bottom of both of the forms back or going  
24 over the waiver with me as I read it to him,  
25 and then he signed at the bottom of both forms



1           acknowledging he understood his rights and  
2           wished to give me a statement.

3       Q.   And do those two documents have the same check  
4           marks on them as the previous document had?

5       A.   Yes.

6       Q.   Okay. After advising Mr. Gardner of his  
7           constitutional rights, did he voluntarily give  
8           you a statement?

9       A.   He did.

10      Q.   Detective Barnett, I'm showing you what's been  
11           marked as State's Exhibit Number 38. Can you  
12           identify State's 38?

13      A.   Yes.

14      Q.   What is State's 38?

15      A.   This would be the videotaped statement given to  
16           me by Mr. Gardner.

17      Q.   Now, prior to coming and testifying in court  
18           today, have you had an opportunity to review  
19           State's Exhibit Number 38?

20      A.   Yes, I have.

21      Q.   Does State's Exhibit Number 38 fairly and  
22           accurately record the video interview that you  
23           had with Willie Gardner, I believe it was on  
24           September the 5th?

25      A.   Yes, sir.

1 MR. KIDD: We offer State's Exhibit  
2 Number 38 at this time.

3 MR. BELSER: No objection.

4 MR. KIDD: Judge, permission to play  
5 it for the jury?

6 THE COURT: How long is it?

7 MR. KIDD: 40 minutes.

8 THE COURT: We've been over an hour.  
9 Y'all approach a second.

10 (The following occurred at the  
11 bench outside the hearing of the  
12 jury:)

13 THE COURT: I don't like keeping them  
14 after five.

15 MR. BELSER: I don't have a problem.  
16 I thought it would be about 5:30.

17 MS. BROOKS: This is the last  
18 witness. We'll play this tape and then play  
19 the surveillance tape.

20 THE COURT: How long will that take?

21 MR. KIDD: Be done within an hour.

22 THE COURT: Let me give them a break.

23 (The following occurred in  
24 open court:)

25 THE COURT: Ladies and gentlemen,

1           excuse me. Let's take about a -- I'm going to  
2           give you a break in the deliberation room for  
3           about 5 minutes. We're going to try to get  
4           through today with this officer, and then we'll  
5           start up tomorrow morning. But does that cause  
6           anybody any problems to go to about 5:30  
7           today? Is that going to cause anybody any  
8           problem? Anybody we need to contact?

9                   PROSPECTIVE JUROR: I need to contact  
10           my office.

11                   THE COURT: Okay. We'll do that.  
12           We'll let you do that. Anyone else?

13                   All right. Let me ask, if you would, take  
14           about a five, 10-minute break in this  
15           deliberation room. We'll be right with you.

16                   (Short recess)

17                   THE COURT: All right. You can have a  
18           seat. Thank you.

19                   MR. KIDD: Your Honor, I believe  
20           before we recessed, the State had just offered  
21           State's Exhibit Number 38. We renew the offer  
22           on State's Exhibit Number 38 and request  
23           permission to play it before the jury.

24                   THE COURT: All right.

25                   (Videotape was played in open

1 court.)

2 Q. Detective Barnett, I'm going to show you now  
3 what's been marked as State's Exhibit Number  
4 40, State's Exhibit Number 39, State's Exhibit  
5 Number 41. Let's start with 39. Can you  
6 identify that for me, please?

7 A. Yes. This would be an audio copy of the  
8 statement taken from Willie Gardner.

9 Q. Now, I see that has the initials ET. Can you  
10 explain that?

11 A. Yes. Inside the room where the videotape is  
12 filmed, there's a tape machine running in there  
13 also to have a back-up tape. That's this tape  
14 from that room.

15 Q. What about State's Exhibit Number 40? Can you  
16 identify it for me, please?

17 A. Yes. This would be an audiotaped statement of  
18 the statement taken from Willie Gardner that I  
19 took in the room with him on the tape player  
20 that was on the table.

21 Q. Is that the cassette we see you turning over  
22 during the course of the interview?

23 A. Yes, it is.

24 Q. Now, with regard to State's 39 and State's 40,  
25 have you had the occasion prior to today to

1 listen to those two audio tapes?

2 A. Yes.

3 Q. Do they fairly and accurately represent the  
4 conversations that you had with Willie Gardner  
5 on that date?

6 A. Yes, they do.

7 MR. KIDD: Judge, we offer 39 and 40  
8 at this time.

9 MR. BELSER: No objection.

10 Q. With regard to State's Exhibit Number 41, can  
11 you identify this document?

12 A. Yes. This would be the transcribed statement  
13 of the video statement that was just played.

14 Q. And Detective Barnett, I notice that there is a  
15 signature at the bottom of this particular  
16 statement on the first page; is that correct?

17 A. Yes.

18 Q. Whose signature is that?

19 A. That's mine.

20 Q. And the purpose of you signing that signature,  
21 is it to authenticate that particular  
22 transcript as being a true and correct  
23 transcription from the audio tape?

24 A. Yes.

25 Q. And is that a true and correct transcription?

1 A. Yes.

2 MR. KIDD: Judge, we offer State's  
3 Exhibit Number 41 at this time.

4 MR. BELSER: No objection.

5 THE COURT: 40 and 41 are admitted.

6 (State's Exhibits 40 and 41 were  
7 admitted into evidence.)

8 Q. Detective Barnett, I asked you earlier, State's  
9 Exhibit Number 1, if you've had an occasion to  
10 view that videotape at Premium Package?

11 A. Yes.

12 Q. This State's Exhibit Number 1, is it the same  
13 videotape that you're showing Willie Gardner  
14 during the video?

15 A. The tape I showed him was actually a slowed  
16 down copy of that. That's the actual original  
17 tape from the store.

18 Q. State's Exhibit Number 1 is the original. What  
19 we saw you talking to Willie Gardner on the  
20 video was a copy of State's Exhibit Number 1?

21 A. Yes. I had to slow it down on a machine that  
22 -- make a dub of it and slow it down because  
23 it's high speed, a real high speed tape.

24 MR. KIDD: Judge, we offer State's  
25 Exhibit Number 1 at this time.

1 MR. BELSER: Judge, I believe it's  
2 already admitted, but no objection.

3 MR. KIDD: Judge, permission to play  
4 this for the jury. Ask permission from the  
5 Court to play State's Exhibit Number 1 for the  
6 jury.

7 THE COURT: How long is this one?

8 MR. KIDD: About five or 10 minutes.

9 THE COURT: All right.

10 MR. KIDD: Judge, can I ask Detective  
11 Barnett to step down for me?

12 THE COURT: All right.

13 Q. Detective Barnett, I want to give you this  
14 pointer here. I tell you what, Detective, if  
15 you'll stand right there from the corner. All  
16 right. Detective, I'm going to let this play  
17 through, but before I let it play through, can  
18 you identify these particular screens for me?

19 A. Yes. The top left screen is going to be a  
20 camera behind the bar area pointing to the  
21 back, towards the back of the store. The front  
22 of the store would be towards the bottom. When  
23 you come in, it would be to the left of the  
24 store. The top right is an exact opposite  
25 angle. Back up in this top left corner of this

1 screen would be where the front door area is.  
2 If you remember from watching the video  
3 earlier, when you came in, there was an  
4 entranceway to the left that goes behind the  
5 bar. That would be this entranceway right  
6 here. It points the opposite direction. The  
7 bottom left is actually the room in the back  
8 where the safe and the videotape and where Ray  
9 was located by police when they arrived. And  
10 the bottom right here would be an outside video  
11 of the -- this is the hallway that comes to the  
12 back of the store, and the door that goes back  
13 up into this office here was right here.

14 Q. And Detective Barnett, I notice that the date  
15 on this is 4/10 of '96, and a time 0505 hours.  
16 That date and time is incorrect?

17 A. That's correct.

18 Q. And I believe, according to the 5:05, this is  
19 about two minutes before the gunmen entered the  
20 store; is that correct?

21 A. I believe so, yes.

22 Q. Okay. We're going to play this now.

23 (Videotape was played in open  
24 court.)

25 Q. Detective Barnett, this is playing at fast



1 speed. That's because it's time lapse; is that  
2 correct?

3 A. Correct.

4 Q. Detective Barnett, use your pointer and show me  
5 where the front of the store is going to be.

6 A. The front of the store is going to be up here  
7 where people -- you see people coming in and  
8 out through this door right here. That is  
9 actually the entranceway right behind these  
10 numbers right there.

11 Q. Can you point to Delano Smith?

12 A. That would be Delano there.

13 Q. Where is Travis Benefield?

14 A. Travis is lying on the floor right here.

15 Q. And who is in the white shirt?

16 A. That would be Anthony Fuller. This is Ray  
17 Davis, and that is Willie Gardner.

18 Q. I'm going to back this up just a little bit.  
19 All right. Can you show me the front door in  
20 this picture?

21 A. There is the front door there.

22 Q. Okay. And where is Ray and where is Travis  
23 Benefield going to be?

24 A. Travis is now lying on the floor. Okay. He  
25 just fell down to the floor. All right. Ray

1           would be standing down at the end of this bar.  
2           There's an area you can cut in behind the bar,  
3           the far end down here as well. The subjects  
4           have entered the store. At this time, the  
5           shots have already -- they started being fired  
6           as they came in the front door.

7       Q.   Now, there at the top right, can you tell who  
8           that is coming through the door?

9       A.   At this point in time, it's hard to determine  
10          exactly who that is. He's got a dark shirt and  
11          dark pants on, which would rule Anthony Fuller  
12          out. That person at that point in time would  
13          either be Willie Gardner or Delano Smith.

14      Q.   Okay. So you can see one person has come  
15          through. What about the door now?

16      A.   Here comes another, coming behind the counter.  
17          And this would be -- and there comes a third  
18          person through the door now with a white shirt  
19          and dark pants on. That would be Anthony  
20          Fuller there. And this person standing down at  
21          the other end of the bar --

22      Q.   What is that in the bottom part of the screen  
23          there?

24      A.   Down here?

25      Q.   Yes.

1 A. That appears to probably be Travis Benefield.

2 Q. Okay. And the person there in the white shirt,  
3 could you identify who that was?

4 A. That's going to be Anthony Fuller.

5 Q. Now, in the top left screen, are both Travis  
6 Benefield and Ray Davis still on the floor  
7 there?

8 A. No. Just -- well, yes, I'm sorry. Ray is back  
9 here and there is Travis there.

10 Q. Who is this in the black shirt there?

11 A. In the black, this would be -- if you look at  
12 the gun, chrome top, doesn't match the  
13 description given to me by Willie Gardner,  
14 clothing doesn't match. That would be the  
15 Delano Smith.

16 Q. Is Willie Gardner in any one of these frames at  
17 this point?

18 A. No, at this point in time, you can't see him  
19 because they don't have a video that covers the  
20 outside where the merchandise is located out  
21 there.

22 Q. Now, Detective Barnett, I'm going to draw your  
23 attention to the top right screen in the bottom  
24 portion. It appears that two hands are coming  
25 up. Can you tell me who they belong to?

1 A. Correct. This would be Travis Benefield  
2 raising his hands. And you can see a better  
3 shot of him down on the left laying there. If  
4 you'll notice, Ray has already gotten up from  
5 here.

6 Q. All right. In the bottom right-hand screen?

7 A. Here comes Ray Davis.

8 Q. And who is that holding a gun on Ray?

9 A. This would be Willie Gardner holding the gun on  
10 him.

11 Q. Okay. Right here, Detective, can you tell what  
12 just happened?

13 A. Hold on. You'll see right here there is a shot  
14 that gets fired into the floor. It's not right  
15 there. It comes right here. Right there.

16 Now. See, Ray jumps as he fires a shot into  
17 the floor.

18 Q. What's going on in the top left-hand screen?

19 A. In the top left-hand, Anthony Fuller is still  
20 emptying the registers. Travis Benefield is  
21 still alive, and Delano Smith is standing over  
22 Travis with a gun. Now, right here, stop it  
23 right quick. At this point, Ray makes a break  
24 to get inside the office to lock himself in.

25 Q. Now, at that point, was Ray shot in the back,

1 Keith? Do you know? Detective Barnett, do you  
2 know?

3 A. I can't recall exactly. I know he was shot in  
4 the abdomen twice and had one wound to the arm.

5 Q. And the gun there appears to be an all black  
6 gun, correct?

7 A. Yes. And it appeared to have been fired at  
8 least once before the door shut. Now, he opens  
9 the door, and you can't really see anything but  
10 the bottom part of Ray's legs here where he's  
11 trying to keep the door shut.

12 Q. Now, when all of this is going on, what's going  
13 on in the top left-hand screen?

14 A. At this point in time, Travis is still alive.  
15 His head is still up, hands are still moving.  
16 They are still taking stuff from out of the  
17 registers and so forth.

18 Q. And Delano Smith, can you tell what direction  
19 he's looking?

20 A. Delano Smith looks to the back at this point in  
21 time. This is Delano here.

22 Q. And shots are being fired?

23 A. Yes, shots have already been fired in the back.

24 Q. Detective Barnett, can you see something  
25 coming? Does that appear to be a muzzle flash

1           there?

2       A.    Here?

3       Q.    Yes.

4       A.    Yes, right there.   The gun actually recoils  
5           there.

6       Q.    Now, in the top left-hand frame, what's going  
7           on here?

8       A.    At this point, Delano Smith has the gun  
9           pointing still at Travis.   Travis has already  
10          been shot here as well, but in the body, okay?  
11          Before he was on the ground, he was shot.   At  
12          this point in time, Delano shoots Travis in the  
13          back of the head at that point right there.  
14          Travis's head goes down, hands go underneath  
15          his face.   He has been shot in the back of the  
16          head and killed right there.

17               Ray is back here calling for help.  
18          Anthony Fuller is still taking stuff from under  
19          the counter.   Delano Smith has left.   Here  
20          comes Delano Smith now in the bottom right.   He  
21          attempts to get in this door, sees it's  
22          locked.   Here comes Willie Gardner.   Delano  
23          Smith goes back, wipes the handle.   Willie  
24          Gardner comes up here and stands over Travis's  
25          dead body and steals a gun.   And at this point

1 in time, all three subjects then exit the store  
2 together.

3 Q. Thank you, Detective.

4 And finally, Detective Barnett, the names  
5 of the participants and their aliases, were you  
6 able to determine whether or not these were  
7 true and correct aliases for the four  
8 defendants?

9 A. Yes, they are.

10 Q. And Willie Gardner was Wet Willie, the  
11 defendant?

12 A. Yes.

13 Q. And Delano Smith is Pop?

14 A. Yes.

15 Q. And Anthony Fuller was Ant?

16 A. That's correct.

17 Q. And Taurus Hall was Big Bug?

18 A. Yes.

19 Q. And the only other individual that we have  
20 heard about in that tape was Solo, which was  
21 Tawaskie Williams, correct?

22 A. Correct.

23 MR. KIDD: Judge, I have no further  
24 questions.

25 THE COURT: All right.

1 MR. BELSER: No questions.

2 MS. BROOKS: I may ask the court  
3 reporter to confirm whether or not State's  
4 Exhibit 20 has been admitted yet?

5 THE COURT: Yes, ma'am.

6 MS. BROOKS: I've got State's Exhibit  
7 31.

8 COURT REPORTER: Yes.

9 MS. BROOKS: It is?

10 COURT REPORTER: Yes.

11 MS. BROOKS: State's Exhibits 36 and  
12 37.

13 COURT REPORTER: I don't have them.

14 MR. BELSER: I have no objection to 36  
15 and 37.

16 MS. BROOKS: At this time, the State  
17 would offer Exhibit 20, the 911 audiotape  
18 identified by Ray Davis.

19 MR. BELSER: No objection.

20 THE COURT: All right. 20 is  
21 admitted.

22 (State's Exhibit 20 was admitted  
23 into evidence.)

24 MS. BROOKS: State's Exhibit 36 and  
25 37, the rights forms of the defendant on



1 September the 5th.

2 MR. BELSER: No objection.

3 THE COURT: 36 and 37 are admitted.

4 (State's Exhibits 36 and 37 were  
5 admitted into evidence.)

6 MS. BROOKS: And State's Exhibit  
7 Number 45, the list of nicknames that Mr. Kidd  
8 just had the witness confirm.

9 MR. BELSER: No objection.

10 THE COURT: It's admitted.

11 (State's Exhibit 45 was admitted  
12 into evidence.)

13 MS. BROOKS: We have no further  
14 witnesses. At this time, we would offer from  
15 the court records State's Exhibit 42, the plea  
16 agreement entered into between the State and  
17 the defendant.

18 MR. BELSER: No objection.

19 THE COURT: I'm sorry. What was that  
20 number again?

21 MS. BROOKS: State's Exhibit Number  
22 the 43, the Exhibit A, which is the explanation  
23 of rights of the defendant.

24 THE COURT: What was the first  
25 number? I'm sorry. I didn't hear you.

1 MS. BROOKS: 42. It's on the list,  
2 Judge.

3 THE COURT: 42 is admitted.

4 (State's Exhibit 42 was admitted  
5 into evidence.)

6 MS. BROOKS: 43, the explanation of  
7 rights and the plea of guilty of the defendant.

8 MR. BELSER: No objection.

9 THE COURT: 43 is admitted.

10 (State's Exhibit 43 was admitted  
11 into evidence.)

12 MS. BROOKS: And lastly, State's  
13 Exhibit 44, the transcript of the plea.

14 MR. BELSER: No objection.

15 THE COURT: It's admitted.

16 (State's Exhibit 44 was admitted  
17 into evidence.)

18 MS. BROOKS: Your Honor, rather than  
19 read the entire exhibit, if we could go to page  
20 6 of that exhibit. And I will read the  
21 question as the lawyer, and Mr. Kidd, if you  
22 would read the response of the defendant from  
23 the exhibit.

24 (Excerpt was read as follows:)

25 Q. (By Ms. Brooks) Willie, did you and Anthony

1 Fuller and Delano Smith enter the Premium  
2 Package Store on Adams Avenue here in  
3 Montgomery County back on September 3rd, 2001  
4 to commit a robbery?

5 A. (By Mr. Kidd) Yes, sir.

6 Q. And was Taurus Hall also involved in this  
7 robbery?

8 A. Yes, sir.

9 Q. Was he the look-out?

10 A. Yes, sir.

11 Q. Did he go into the store and make sure the  
12 coast was clear and y'all could then enter the  
13 store?

14 A. Yes, sir.

15 Q. And did he come back outside and wave to you to  
16 let you know the coast was clear?

17 A. Yes, sir.

18 Q. And then did you and Anthony Fuller and Delano  
19 Smith enter the store to commit the robbery,  
20 and during the course of that robbery, did you  
21 shoot Raymond Davis?

22 A. Yes, sir.

23 Q. And during the course of that robbery, did  
24 someone -- from what we understand, Delano  
25 Smith -- shoot and kill Travis Benefield?

1 A. Yes, sir.

2 Q. And after this offense, did the three of y'all  
3 leave the scene, meet up and divide the  
4 proceeds from the robbery?

5 A. Yes, sir.

6 Q. Also, not only was money taken from the Premium  
7 Package Store but a weapon was taken from the  
8 Premium Package Store?

9 A. Yes, sir.

10 Q. And did you do that? You took a weapon?

11 A. Yes, sir.

12 Q. Did anyone else take a weapon from the store?

13 A. Ant.

14 Q. Anthony Fuller?

15 A. Yes, sir.

16 MS. BROOKS: Thank you.

17 At this time, the State of Alabama rests  
18 its case in chief.

19 THE COURT: All right.

20 MR. BELSER: The defense will not  
21 present any witnesses and rests.

22 THE COURT: All right. Ladies and  
23 gentlemen, I'm going to let you go for the  
24 night. Let me ask that you be back here --  
25 what time do y'all want to start? Is nine

1           okay?

2                       MS. BROOKS:   Whatever the Courts want.

3                       THE COURT:   Nine o'clock.   All right.

4           Nine o'clock.   Again, I must caution you on  
5           listening to any news media concerning this  
6           case.   I've given you that instruction several  
7           times.   Do not discuss this case among  
8           yourselves or with anyone else and also do not  
9           discuss it with your spouse or ask them what  
10          they think, he or she may think, okay?   And  
11          we'll see you tomorrow morning.   Let me also  
12          caution you on what will happen in the jury  
13          assembly room.   Some people have newspapers and  
14          everything, and they may try to discuss  
15          something that they may see in the newspaper.  
16          So let me caution you not to pick it up or be  
17          where you can hear something like that.

18                      All right.   Anything else?

19                      MR. BELSER:   No.

20                      THE COURT:   All right.   Thank y'all.  
21          We'll see you tomorrow morning.   Let me ask  
22          that you step in that room one second.

23                      (The following proceedings  
24                      occurred outside the presence of  
25                      the jury:)

1 THE COURT: Ms. Brooks, let me ask  
2 y'all something. Do you want to go ahead and  
3 try to do this tonight or do y'all want to -- I  
4 mean, how long is closing? I don't want to  
5 keep them too much longer.

6 MS. BROOKS: Fifteen minutes for us.

7 MR. BELSER: Zero for the defense. We  
8 could waive closing arguments. I mean, there's  
9 not much else you can do.

10 MS. BROOKS: The last jury took 15  
11 minutes to deliberate.

12 THE COURT: Well, I'm ready to go.  
13 Y'all think I need to ask these folks what they  
14 need to do, if anybody, and see what they say?

15 MS. BROOKS: If they are willing to  
16 go, we are.

17 THE COURT: And if any of them has any  
18 problems, we'll just do it in the morning.

19 MR. BELSER: That's fine.

20 THE COURT: Is that okay?

21 MS. BROOKS: Yes, sir, except could we  
22 just go ahead and put on the record that we've  
23 had an informal jury charge conference and that  
24 both sides are satisfied with the Court's  
25 charge?

1 MR. BELSER: Yes. I deleted one  
2 portion, and I marked it with my initials.

3 THE COURT: All right. Let me just  
4 look at this before you let them back in. One  
5 second. I had some questions, so let's just go  
6 over them. Y'all approach. I can show it to  
7 you better than I can talk out loud on the one  
8 that -- the pattern instruction. Or another  
9 person, does that need to be there?

10 MS. BROOKS: Yes, sir.

11 THE COURT: And then down here.

12 MS. BROOKS: Deleted.

13 THE COURT: I deleted dangerous  
14 instrument. I just want to make sure. Let me  
15 just make sure I've got what y'all put here. I  
16 don't want to stop in the middle of it. I put  
17 that in, a gun and/or lawful currency and/or  
18 coinage of the United States. And then Travis  
19 Benefield there. Taken up or escaping with the  
20 property has been marked through.

21 Okay. I need the name of the alternate --  
22 the name of the alternates.

23 MS. BROOKS: Need the alternates?

24 THE COURT: Yes.

25 MS. BROOKS: Yes, sir, I've got it.

1 Judge, while I'm getting that, I saw where you  
2 marked through expert, but I believe you wrote  
3 by it give. But you're going to give the  
4 standard pattern?

5 THE COURT: It's almost identical to  
6 what you had.

7 MS. BROOKS: Yes, sir. I show as the  
8 alternate 39 and 61, Ms. Boone and Ms. Carson.

9 THE COURT: Ms. Boone and Ms. Carson.

10 MR. BELSER: Yes. I got them all in  
11 here.

12 MS. BROOKS: We agree. Have you  
13 looked at the verdict form already?

14 MR. BELSER: No, I didn't see it.

15 THE COURT: I'm going -- it's going to  
16 be at least an hour. Fifteen minutes of  
17 closing, another 15 for me.

18 MS. BROOKS: Whatever you want to do,  
19 Judge.

20 THE COURT: Yes, let's let them go.  
21 I'm sorry. I just --

22 MR. BELSER: We've taken care of some  
23 things.

24 THE COURT: I don't mind doing it, but  
25 I just don't want to --



1 MR. BELSER: Do you want to ask the  
2 jury? They all may say let's get it over with.

3 THE COURT: I don't mind, but I sure  
4 hate to do --

5 MS. BROOKS: And I promise you, my  
6 close is not long.

7 THE COURT: Bring them back in.

8 (The following occurred in the  
9 presence of the jury:)

10 THE COURT: Y'all approach one more  
11 second.

12 (The following occurred at the  
13 bench outside the hearing of the  
14 jury:)

15 THE COURT: On the front, this has to  
16 go.

17 MS. BROOKS: You have to -- correct.

18 (Open court.)

19 THE COURT: Y'all come on in. Is that  
20 everybody? Y'all be seated. Let me ask you,  
21 I've been discussing with the attorneys while  
22 you sat in there. It's going to take about 15  
23 to 20 minutes in closing arguments, another 15  
24 to 20 minutes in charging you on the law. And  
25 then I was going to let you deliberate. Do any

1 of y'all want to do that tonight? Do you want  
2 to do that tonight or do you want to do it in  
3 the morning?

4 JUROR: In the morning.

5 THE COURT: It will be about another  
6 hour is my estimate, at least -- no, about 45  
7 minutes with the closing charge and the --

8 JUROR: Tomorrow.

9 JUROR: Tomorrow.

10 THE COURT: Tomorrow? Is that what I  
11 heard?

12 JUROR: Yes.

13 THE COURT: I'm half deaf. I  
14 apologize to y'all, but I can't hear. Y'all  
15 want to do it tomorrow or tonight?

16 JUROR: Tomorrow.

17 THE COURT: Okay. Remember my  
18 instructions. We don't need to have to start  
19 this trial over again, okay, so, please,  
20 please, do not let -- if you should hear or  
21 anybody say anything, you overhear anything,  
22 you let me know about it. But otherwise, I'll  
23 see you tomorrow morning, nine o'clock, jury  
24 assembly room. Thank you. If you would,  
25 follow the deputy out she's going to escort

1 y'all out, okay?

2 (Court adjourned.)

3 OCTOBER 28, 2003

4 (Defendant present.)

5 THE COURT: Y'all be seated. Are you  
6 ready to proceed?

7 MS. BROOKS: Yes, Your Honor.

8 THE COURT: All right.

9 MS. BROOKS: Good morning. This part  
10 of the trial they call the closing argument.  
11 That's when the opportunity exists to summarize  
12 the evidence. I want, first of all, to tell  
13 you that I'm not going to go through every one  
14 of the 16 witnesses, okay, nor am I going  
15 through the 45 exhibits. But I would like to  
16 highlight a few things.

17 One of the things you don't have the  
18 advantage of yet is that you really didn't know  
19 exactly what the charge was. The Judge is  
20 about to give you that in great detail. So  
21 anticipating that, what I want to do is briefly  
22 discuss the elements or the requirements that  
23 we had to prove and how we proved them, okay?

24 So, first, let's start with the actual  
25 overall charge. And these are just some

1 handwritten notes that I made, so if you can  
2 read them, I hope. Okay. First of all, we  
3 have to prove that the defendant, Willie  
4 Gardner, did intentionally cause the death of  
5 Travis Benefield by shooting him with a gun and  
6 caused the death during a robbery first  
7 degree. And underneath that, I've outlined  
8 basically what that is, that the defendant  
9 and/or an accomplice was in the course of  
10 committing a theft of a gun and/or cash -- cash  
11 is lawful currency and coinage, okay -- of some  
12 value -- we don't have to prove a specific  
13 value -- the property of Travis Benefield  
14 and/or Premium Package Store. And how did he  
15 do it? By the use of force against Travis  
16 Benefield with the intent to overcome his  
17 resistance or power of resistance while the  
18 defendant and/or the accomplice was armed with  
19 a deadly weapon, in this case, a gun. So  
20 that's it in a nutshell.

21 Let's break it down. How did we prove  
22 each one of these things? Well, the first  
23 thing we have to prove is that it was the  
24 defendant, that this defendant, Willie Gardner,  
25 was involved. Okay. How did we do that?

1 Well, there are numerous ways we've done it in  
2 this case. First of all, Ray Davis said that's  
3 who took me to the back. I recognized his  
4 face. He knew him.

5 Second of all, Tawaskie Williams'  
6 stipulated testimony was that he saw them  
7 before and after, and he knew what was going  
8 on.

9 Third, the statement that this defendant  
10 gave to the two police officers that you  
11 watched on videotape yesterday when he said,  
12 yes, I went in, yes, I was involved; and the  
13 guilty plea transcript where Mr. Kidd and I  
14 read back and forth his answers to his lawyer's  
15 questions. I was involved. I am there. So we  
16 know he's there.

17 Then, the next element is did he  
18 intentionally cause the death of Travis  
19 Benefield? Well, first of all, was Travis  
20 Benefield dead? Yes, we do know, don't we?  
21 How do we know that? Well, first of all we  
22 have the expert opinion of Dr. Bristol, through  
23 his autopsy report. Both his report is in and  
24 his stipulated testimony that this man was  
25 dead, and it was a result of multiple gunshot

1 wounds.

2 And then we had Ray Davis. Remember, I  
3 had to ask him very near the end, is this  
4 Travis Benefield, a picture of him -- and it's  
5 in evidence -- and he said yes. So we know  
6 it's Travis that's dead.

7 Second, was it intentional? Yes. This is  
8 important for y'all to focus in on, okay? They  
9 planned it ahead. They talked about it  
10 specifically. We're going to have to kill  
11 him. Number two, they went in with guns,  
12 loaded guns. When you use a gun, your intent  
13 is inferred to kill. That's what you do with  
14 guns. Look how many shots were fired at Travis  
15 Benefield. It wasn't a one time deal, was it?  
16 Multiple shots to his abdomen and multiple  
17 shots to the head.

18 And then look that there were two sets of  
19 shots. The first set didn't kill him, so he  
20 shot him again after more of the robbery had  
21 occurred and after Willie Gardner had shot Ray  
22 Davis.

23 And then where was he shot? It wasn't in  
24 the foot to disarm him or his hand. It was in  
25 the back of the head at near point blank

1 range.

2 Then what did he do from the very  
3 beginning? Willie Gardner never sought help  
4 for Travis Benefield. None of them did. They  
5 ran out. That tells you their intent was to  
6 kill. And, of course, they left. They didn't  
7 do anything to help him.

8 And lastly, what was the reason they went  
9 in there to begin with? We call that motive.  
10 Well, obviously, one was to steal, wasn't it?  
11 But you don't have to kill somebody to rob  
12 them; but in this case, they did. And because  
13 it was a second motive, it was a revenge  
14 factor, but, more importantly, there was the  
15 eliminate the witnesses. The plan was execute  
16 the two men who knew them and get the  
17 surveillance tape, okay? So that's why we know  
18 it's intentional.

19 The next piece of the element is  
20 shooting. How did they do it? By shooting  
21 Travis with a gun, okay? Now, we have two  
22 expert opinions here. One was the autopsy  
23 where the doctor said he died as a result of  
24 multiple gunshot wounds. The only way you do  
25 that is to be shot with a gun. And number two,

1 the firearms expert who not only looked at the  
2 casings but took the very gun that was found on  
3 the other side of the wall that's been  
4 identified to have been the one that Pop had  
5 and took the casings and compared them with  
6 this gun and found, in his expert opinion,  
7 seven of the 10 casings were fired through this  
8 gun. And those seven casings were all found  
9 near the front door and in the area of Travis  
10 Benefield. So we know this is the gun that  
11 killed him.

12 There were three other casings, remember?  
13 And the expert said they were similar to, but  
14 he couldn't say positively they came from this  
15 gun. They could have come from a similar  
16 weapon. And we know from the evidence that the  
17 defendant had a similar weapon. It was also a  
18 nine millimeter. So it is possible it came  
19 from that gun, but we don't know that from the  
20 forensics man because that gun wasn't  
21 recovered. Remember, the defendant said he  
22 gave it to Big Bug, okay?

23 All right. We also have a surveillance  
24 tape. And that told us that Travis Benefield  
25 was shot with a gun because we saw it. And in



1 his statement, the defendant admits that's what  
2 happened. And of course, in his guilty plea he  
3 says that. So we've proven now that's how it  
4 happened by being shot with a gun.

5 Now, the last part is the robbery. How  
6 did we know this all happened during a  
7 robbery? Well, first of all, we know there's a  
8 robbery. You might remember from one of the  
9 photographs and the video the officer pointed  
10 out that he had a -- Travis had a holster that  
11 was empty. We also know that the guns were  
12 missing. Mickey Phillips, the owner, said they  
13 were missing. I think even -- yes, even Ray  
14 said they were missing. The defendant said he  
15 took a gun and that Ant took one. And in his  
16 guilty plea, he said the same.

17 We also know money is missing. Remember  
18 the photographs -- and I think we showed you  
19 several -- the cash register with those springs  
20 that were up? The drawer is open. There were  
21 no dollars, no bills in there, some coins  
22 left. We know that was missing. Ray said the  
23 money was missing. Mickey Phillips said it was  
24 missing.

25 We also know they -- what were they trying